

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA *ex rel.*
BEATRIZ HUML,

Plaintiff,

v.

STATE OF TEXAS,

Defendant.

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EP-15-CV-00126-DCG

ORDER TO SHOW CAUSE


On this day, the Court *sua sponte* considered the above-captioned case. Plaintiff United States of America *ex rel.* Beatriz Huml (“Plaintiff”) filed the instant *qui tam* complaint in this Court against Defendant State of Texas on May 1, 2015. *See* Compl. 1, ECF No. 1. On July 10, 2015, the Court ordered the complaint unsealed after it received notice that the United States declined to intervene in the action. *See* Order 1, ECF No. 5. In that same order, the Court ordered Plaintiff to serve the complaint on Defendant State of Texas. *Id.* To date, the record reflects that Plaintiff has not requested the issuance of a summons, nor has Plaintiff returned an executed summons. Instead, Plaintiff has filed a “series of communications” as proof that it has served process on Defendant State of Texas. *See* ECF Nos. 10, 12, 13, 14, 15, 16, 28.

Federal Rule of Civil Procedure 4 governs service of process for cases originally filed in federal court. Under Rule 4(j)(2), a state that is subject to suit must be served either by “delivering a copy of the summons and of the complaint to its chief executive officer” or by “serving a copy of each in the manner prescribed by that state’s law for serving a summons or like process on such a defendant.” Fed. R. Civ. P. 4(j)(2). Additionally, Rule 4(m) provides that a plaintiff has 120 days from the filing of his or her complaint in which to effectuate proper

service. *See* Fed. R. Civ. P. 4(m). If service is not made on a defendant within 120 days, “the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” *Id.* In the instant action, Plaintiff’s *qui tam* complaint was unsealed on June 10, 2015, and over 120 days have passed.

Accordingly, **IT IS ORDERED** that Plaintiff United States of America *ex rel.* Beatriz Huml **SHOW CAUSE** in writing on or before **December 7, 2015**, why the Court should not dismiss the instant cause against the Defendant State of Texas for failure to serve process. Failure to respond to this order by **December 7, 2015**, will result in dismissal of the above-captioned cause under Rule 4(m).

SO ORDERED and SIGNED this 24th day of November, 2015.


DAVID C. GUADERRAMA
UNITED STATES DISTRICT JUDGE